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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/557,637	04/25/2000	Thomas E. Tamburrini		9258

33451 7590 10/06/2003

PSC SCANNING, INC. - STOEL RIVES LLP
C/O STOEL RIVES LLP
900 SW 5TH AVENUE
PORTLAND, OR 97204

EXAMINER

DO, ANH HONG

ART UNIT	PAPER NUMBER
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2624

DATE MAILED: 10/06/2003

6

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/557,637

Applicant(s)

TAMBURRINI ET AL.

Examiner

ANH H DO

Art Unit

2624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13-38 is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed 8/29/2000 fails to comply with 37 CFR 1.98(a)(1), which requires a list of all patents, publications, or other information submitted for consideration by the Office. It has been placed in the application file, but the information referred to therein has not been considered.
2. The information disclosure statement filed 8/29/2000 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because it does not include a list of all references. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sato (U.S. Patent No. 6,084,524) in view of Pantus (U.S. Patent No. 5,831,529).

Regarding claim 1, Sato discloses:

- detecting an amount of light from the light source that has been reflected by the object (col. 16, lines 35-37);
- determining whether an object is present or absent by comparing the amount of light detected in the detection to an amount of light expected when an object is present (col. 16, lines 41-44);
- initiating a data reader control function in response to a determination made in the determining step (col. 7, lines 41-45, teaches control section 8 for controlling the emission of light to a sense area (for reading)).

One skilled in the art would have clearly recognized the light emission section 1 (Fig. 1) in Sato would implicitly illuminate the object to detect the presence or absence of an object (col. 1, lines 11-15). Sato does not specifically teach illuminating the object located in front of a window with light from a light source.

Pantus teaches:

- illuminating an object located in front of a window located in front of a window with light from a light source (Fig. 1: light emitter 2 illuminating an object located in front of a window 4 with light; and col. 3, lines 10-16, teaches the light beam is transmitted in the event an attempt to approach window 4 with an object), wherein the light rays strike and reflect back by an object located near the surface of a window to enable detection of the presence of the object (col. 1, lines 64-67).

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Therefore, it would have been obvious to have illuminated an object located in front of a window located in front of a window with the light in Sato as taught by Pantus in order to enable the detection of the presence of an object.

Regarding claims 2 and 3, Pantus teaches determining that an object is absent or present from in front of the window (col. 3, lines 21-34).

Regarding claims 4, 7, and 9, Pantus teaches determining that the object is present in front of the window only when the object is present in an immediate vicinity of the window (col. 4, lines 25-28).

Regarding claims 5, 6, 8 and 10, Pantus teaches a volume control/ wake-up function (col. 4, lines 25-28, teaches an alarm).

Regarding claim 11, the discussion of claim 1 applies hereto since Sato discloses detecting surface state (i.e., the presence or absence of the window) (col. 2, lines 1-6).

Regarding claim 12, the laser is well-known in the art (Official Notice).

Allowable Subject Matter

5. Claims 13-38 are allowed.

6. The following is a statement of reasons for the indication of allowable subject matter:

Regarding independent claim 13, the prior art, either taken singly or in combination, does not teach:

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- an optical reader having a second light detector, the second light detector positioned behind the window and aimed to detect light arriving from objects located in front of the window, wherein the optical reader is controlled by an assertion of the first output.

Regarding claims 14-38, since these claims depend upon claim 13, they are also allowable for the same reason.


Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANH H DO whose telephone number is 703-308-6720. The examiner can normally be reached on 5/4-9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, DAVID K MOORE can be reached on 703-308-7452. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-308-5397 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

October 1, 2003


ANH HONG DO
PATENT EXAMINER